



Case Reference : **AB/LON/ooAC/OC9/2018/0027**

Property : **Flat 28 Raffles House, 67
Brampton Grove, London NW4
4BU**

Applicant : **Mrs Darlyine Lindsay Pentel**

Representative : **N/A**

Respondent : **Howard Stein and Linda Stein**

Representative : **Glinert Davis LLP**

Type of Application : **Costs**

Tribunal Members. : **Judge Tagliavini
Miss M Krisko FRICS**

Date and venue of hearing : **10 Alfred Place, London WC1
7ER
19 September 2018**

Date of Decision. : **19 September 2018**

DECISION

The tribunal's decision:

- A. The tribunal determines that the total sum of £2364.00 (inclusive of VAT) is payable by the Applicant to the Respondent in respect of costs awarded under Rule 13 of the Tribunal Procedure (First Tier Tribunal)(Property Chamber) Rules 2013.

The application

1. This is an application by the Respondent seeking an order for costs in respect of an application made by the Applicant under the provisions of the Leasehold Reform Housing and Urban Development Act 1993 ('the 1993 Act'). This application was struck out by the First Tier Tribunal (FTT) with effect from 7 April 2018 as the Applicant failed to comply with any of the FTT's directions or otherwise further her application.
2. The Respondent seeks costs made up of:
 - £864.00 (inclusive of VAT) in respect of dealing with the Counter-Notice.
 - £350 plus VAT for the costs of drafting a new lease.
 - £1,080.00 (inclusive of VAT) in respect of the valuation advice provided by Maunder Taylor.

The Respondent's case

3. The Respondent requested a paper determination of the application and provided the FTT with a Statement in support and documentary evidence and schedule of the costs incurred. The Respondent asserted that as the Applicant had failed to comply at all with the FTT's direction leading to her application being struck out, her conduct amounted to unreasonable or vexatious behaviour under the provisions of Rule 13.

The Applicant's case

4. No response was received from the Applicant in respect of this costs application despite having been notified of it.

The tribunal's decision

5. In determining this application, the FTT takes as its starting point the provisions for costs made under Rule 13, the relevant parts of which state:-

Orders for costs, reimbursement of fees and interest on costs

13.—(1) The Tribunal may make an order in respect of costs only—

(a) under section 29(4) of the 2007 Act (wasted costs) and the costs incurred in applying for such costs;

(b) if a person has acted unreasonably in bringing, defending or conducting proceedings in—

(i) an agricultural land and drainage case,

(ii) a residential property case, or

(iii) a leasehold case; or

(c) in a land registration case.

(2) The Tribunal may make an order requiring a party to reimburse to any other party the whole or part of the amount of any fee paid by the other party which has not been remitted by the Lord Chancellor.

(3) The Tribunal may make an order under this rule on an application or on its own initiative.

(4) A person making an application for an order for costs—

(a) must, unless the application is made orally at a hearing, send or deliver an application to the Tribunal and to the person against whom the order is sought to be made; and

(b) may send or deliver together with the application a schedule of the costs claimed in sufficient detail to allow summary assessment of such costs by the Tribunal.

(5) An application for an order for costs may be made at any time during the proceedings but must be made within 28 days after the date on which the Tribunal sends—

(a) a decision notice recording the decision which finally disposes of all issues in the proceedings; or

(b) notice of consent to a withdrawal under rule 22 (withdrawal) which ends the proceedings.

6. The tribunal notes that an application for costs can be made at any time during the proceedings or within 28 days of the application being disposed of. In this instance, the FTT treats the Respondent's letter dated 16 March 2018 as being the application for Rule 13 costs and considers the letter of 23 May 2018 as being 'out of time,' the

Applicant's application having been struck out on 7 April 2018 and notified to the parties on 12 April 2018.

6. In light of the striking out order the FTT considers that the Applicant's conduct has been unreasonable and has unnecessarily caused the Respondent to incur the costs associated with this type of lease extension application. The tribunal is satisfied that the Applicant has been properly notified of this application for costs but the FTT finds it has not been provided with any explanation for the Applicant's unwillingness to engage with the FTT and comply with its directions despite having made her application in the first instance and failed to seek to re-instate her struck out application.
7. The FTT is satisfied from the documents provided that the costs incurred by the Respondent have both been incurred, in respect of this lease extension application and are reasonable in amount. Therefore, the FTT awards the totality of the sum claimed including VAT amounting to £2364.00.

Signed: Judge LM Tagliavini

Dated: 19 September 2018